

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN**

PROFILE PRODUCTS LLC,

Plaintiff,

vs.

HONORABLE _____

CIVIL ACTION NO. _____

ENCAP, LLC,

Defendant.

JURY TRIAL DEMANDED

THOMAS A. LEWRY (P36399)
BRIAN S. TOBIN (P67621)
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Attorneys for Plaintiff

COMPLAINT FOR PATENT INFRINGEMENT

The Parties

1. Plaintiff, Profile Products LLC ("Profile Products") is a Delaware corporation having its principal place of business at 750 Lake Cook Road, Suite 440, Buffalo Grove, Illinois 60089.

2. Defendant, Encap, LLC is a Wisconsin corporation having its principal place of business at 3921 Algoma Road, Green Bay, Wisconsin 54311-9707.

Jurisdiction

3. This action arises under Title 35 of the United States Code.

4. The Court has subject matter jurisdiction under 28 U.S.C. §§ 1331 and 1338(a). Venue is proper in this district under 28 U.S.C. §§ 1391 and 1400(b) because Encap, LLC conducts business and solicits customers in this district and has committed and continues to commit acts of patent infringement in this district.

Count I (Patent Infringement)

5. On February 26, 2002 U.S. Patent No. 6,349,499 ("the '499 patent") was duly and lawfully issued for "Artificial Mulch For Seedling Establishment." A copy of the '499 patent is attached as Exhibit A. The application which eventually issued as the '499 patent was assigned to Profile Products on February 23, 2000. Since that date, Profile Products has been, and continues to be, the owner of the '499 patent.

6. Encap, LLC makes, uses, sells, and offers for sale in the United States seed mulch products that infringe the '499 patent, including seed mulch products sold under the names "Dog Repair Kit," "Grass Repair Kit," "New Lawn Kit," and "Wildflower Bouquet" and under the brand names Encap and American Heritage.

7. Profile Products has been, and will continue to be, irreparably harmed by Encap, LLC's conduct unless Encap, LLC is enjoined by this Court.

Demand For Relief

WHEREFORE, Profile Products asks the Court to:

- A. enter a preliminary and permanent injunction to enjoin Encap, LLC from infringing the '499 patent;
- B. award Profile Products damages against Encap, LLC with prejudgment interest and costs;
- C. award Profile Products its reasonable attorney fees in accordance with 35 U.S.C. § 285; and
- D. award Profile Products all other relief to which it is entitled.

Jury Demand

Profile Products requests a trial by jury.

Respectfully submitted,

BROOKS KUSHMAN P.C.

By: /s/ Thomas A. Lewry
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Dated: February 19, 2009